

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK**

LORI-ANNE ALBANO, at. al, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

BEECH-NUT NUTRITION COMPANY,  
GERBER PRODUCTS COMPANY, HAIN  
CELESTIAL GROUP, INC., and NURTURE  
INC.,

Defendants.

Civil Action No. 2:21-cv-01118-JMA-AKT

**STIPULATION AND [PROPOSED] ORDER TO  
EXTEND DEFENDANTS' TIME TO ANSWER AND TO STAY PROCEEDINGS**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned attorneys  
for the parties, that:

WHEREAS, plaintiffs filed their complaint on March 2, 2021 (ECF No. 1);

WHEREAS, service was made on certain defendants as per the return of summons filed on  
April 11, 2021 (ECF No. 7);

WHEREAS, certain defendants' deadline to move, answer, or otherwise respond to the  
complaint would be as early as May 10, 2021 and other defendants' deadlines would be later in the  
month of May, 2021;

WHEREAS, this action is subject to a motion pending before the Judicial Panel on  
Multidistrict Litigation ("JPML") to transfer related actions to the Eastern District of New York for  
consolidated pretrial proceedings. *See In re Baby Foods Marketing, Sales Practices and Product  
Liability Litig.*, MDL No. 2997, Docket No. 1 ("MDL Motion"). Plaintiffs support the MDL Motion.  
*See id.* Defendants oppose the MDL Motion. *See id.*, Docket No. 120. The JPML has scheduled a  
hearing on the MDL Motion for May 27, 2021. *See id.*, Docket No. 125;

WHEREAS, certain defendants have advised plaintiffs that they are prepared to proceed with the necessary steps to present to this Court a motion seeking to sever plaintiff's claims against each defendant and transfer the claims against Beech-Nut Nutrition Company ("Beech-Nut") to the Northern District of New York, against Gerber Products Company ("Gerber") to the District of New Jersey, against Nurture Inc. ("Nurture") to the Southern District of New York, and to require plaintiffs to state its claims in separate actions against Hain Celestial Group, Inc. ("Hain") in this District;

WHEREAS, in discussing defendants' proposed motions to sever and transfer, and in light of the upcoming deadlines for certain defendants to answer, the parties agreed, in the interests of judicial economy and preserving judicial and party resources, to seek to stay this action pending the JPML's decision on the MDL motion on the conditions set forth below;

WHEREAS, the parties do not submit this stipulation for the purpose of delay, and the parties' requested stay of this action will be limited to approximately one to two months pending the JPML's decision on the MDL Motion following the May 27, 2021, hearing.

NOW, THEREFORE, IT IS HEREBY STIPULATED BY THE UNDERSIGNED THAT:

1. All proceedings in this action shall be stayed, effective immediately, pending resolution of the MDL Motion by the JPML;
2. If this action is not centralized pursuant to the JPML's order on the MDL Motion, plaintiff shall have 15 days following the JPML's decision on the MDL Motion to file a notice advising (1) whether plaintiff stipulates, as applicable, to (a) sever plaintiff's claims against each individual defendant; and (b) consolidate (with transfer as necessary) plaintiffs' claims against each individual defendant in this or other Districts (i.e., "Voluntarily Sever and Transfer"), and/or (2) whether and when plaintiff intends to file an amended complaint in this action before defendants' anticipated motion to sever and transfer;

3. If this action is not centralized pursuant to the JPML's order on the MDL Motion, and if plaintiff does not agree to Voluntarily Sever and Transfer:
  - a. Defendants' deadline to file their motions to sever and transfer shall be 45 days following the JPML's decision on the MDL Motion or 30 days after the filing of plaintiff's amended complaint, whichever is later;
  - b. Each defendant's deadline to move, answer, or otherwise respond to the operative complaint shall be 30 days following the Court's ruling on defendants' motion to sever and transfer, or at such later time as may be applicable in any transferred or consolidated matter.
4. If this action is not centralized pursuant to the JPML's order on the MDL Motion and is Voluntarily Severed and Transferred, each defendant's deadline to move, answer, or otherwise respond to the operative complaint shall be 30 days following the Court's ruling on the parties' stipulation to sever and transfer, or 30 days following plaintiff's filing of an amended complaint, whichever is later, or, at such later time as may be applicable in the transferee court(s) or consolidated matter(s).
5. The parties may agree to lift this stay by stipulation without further order of the Court.

Dated: May 6, 2021

Respectfully submitted,

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*Attorney for Defendant Nurture Inc.*

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2021

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Hon. A. Kathleen Tomlinson  
U.S. Magistrate Judge